

340097



MAY 15 1985

Thompson
Duane Marine
COPY

RAVIN, SARASOHN, COOK, BAUMGARTEN & FISCH

COUNSELLORS AT LAW

*DAVID N. RAVIN
**JEFFREY H. FISCH
MARK BAUMGARTEN
JOSEPH L. COOK
PETER R. SARASOHN
*BERNARD SCHENKLER
MARK R. DECKER
*KENNETH A. ROSEN
*STEPHEN C. GREENE
*PAUL KIZEL

80 MAIN STREET
WEST ORANGE, N. J. 07052
(201) 736-9180
CABLE ADDRESS DARIM
TELECOPIER: 736 9308
OF COUNSEL:
***GEORGE R. HIRSCH

*N. J. AND NEW YORK BARS
**N. J. AND FLORIDA BARS
***N. J., N. Y. AND MASS. BARS

May 7, 1985

Margaret Thompson, Esq.
Office of General Counsel
Room 437
U.S. Environmental Protection Agency
Region II
26 Federal Plaza
New York, NY 10278

RE: DUANE MARINE SALVAGE CORP.
Administrative Order
Index No. II-CERCLA-50107

Dear Ms. Thompson:

As you know from our prior conversations, we represent G & W Laboratories, Inc. in the matter of Duane Marine Salvage Corp., Perth Amboy, NJ CERCLA action. Please consider this letter and the attachments as a Petition by G & W Laboratories Inc. ("G & W") to be removed as a Respondent to Administrative Order II-CERCLA-50107 and all related orders and proceedings in connection with the Duane Marine Salvage Corp. ("Duane Marine") in Perth Amboy, NJ.

We have enclosed herein as support for the Petition of G & W the Affidavit of Mr. Burton G. Greenblatt, President of G & W (Exhibit "A") and a copy of the Special Waste Manifest No. A 48137 (Exhibit "B"). We respectfully believe that the information contained in the enclosures more than sufficiently

RAVIN, SARASOHN, COOK, BAUMGARTEN & FISCH

Margaret Thompson, Esq.
May 7, 1985
Page 2

supports the position of G & W that it should be removed as a Respondent in the pending matter filed by the U.S. Environmental Protection Agency. We would, of course, welcome any opportunity to discuss this matter further with you. If you require further information, please do not hesitate to contact us.

Respectfully submitted,

RAVIN, SARASOHN, COOK,
BAUMGARTEN & FISCH


Peter R. Sarasohn

PRS:cc

Enclosure

DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION

SPECIAL WASTE MANIFEST

A 48137

15633

SECTION I TO BE COMPLETED BY THE SPECIAL WASTE GENERATOR

SECTION TWO - CONTAINER INFORMATION

Plant Identification Number ☐ ☐ ☐ ☐ ☐ Pick-Up Date ☒ ☐ ☐ ☐ ☐ ☐ ☐ ☐ MO DAY YR.

Company Name G & W Labs

Pick-Up Address 11 Coolidge St.

Name of Hauler Owens Machine

Name of Facility Owens Machine

Address S Plainfield N.J.

Address 26 Washington St. P.O. Box NJ

Address 26 Washington St. P.O. Box NJ

Emergency Spill Phone Nos.: 609-292-5560 or 609-292-7172

Handline Instructions:

Handling Instructions:

D COPY
NOT
AVAILABLE
Waste Type

<div style="border: 1px solid black; padding: 5px; transform: rotate(-15deg); display: inline-block;"> NO COPY NOT AVAILABLE <small>Waste Type</small> </div>		Number of Containers	Physical State	Hazard ID.	Total Quantity Identify units in pounds or gallons use P for pounds and G for gallons	Pounds or Gallons	SECTION V TO BE COMPLETED BY THE SPECIAL WASTE FACILITY OPERATOR
1.	Acid Solution						
2.	Alkaline Solution						
3.	Arsenic Residues						
4.	Catalyst Residues						
5.	Cyanide Residues						
6.	Chlorinated (Dioxin, Furan) Residues						
7.	Etching, Pickling, & Plating Residue						
8.	Explosive Residue						
9.	Filter Clays, Filter Aids						
10.	Ester, Alcohol, Ether, Ketone, Glycol Residues	10	L	F	350	G	
11.	Heavy Metal Residue						
12.	Organic and Heavy Metal Residue Mixture						
13.	Latex Residue						
14.	Peroxide						
15.	Oil and Oil Sludges, Emulsions						
16.	Paint and Pigment Residues						
17.	Pesticides						
18.	Pharmaceutical Wastes (Drugs, etc.)	24	L	F	1265	G	
19.	Isocyanates, Amines, Mercaptans, Amide						
20.	Plasticizer, Resin, Monomer, Elastomer Residues						
21.	PCB, PBB Contaminated Materials						
22.	Solvent, Halogenated Organic						
23.	Solvent, Mixed						
24.	Still Bottoms						
25.	Radioactive Residue						
26.	Tetraethyl Lead Residues Other (See Instructions)						
27.							
28.							
29.							
30.							

I certify that the above information is correct to the best of my knowledge.
Date 11/2/78 Signature and Title [Signature] Pur. Mgr.

SECTION D TO BE COMPLETED BY THE SPECIAL WASTE HAULER

I certify that the described quantity of material (s) listed in Section I was collected by me. State Number
Date 4/6/20 Signature John Lawson Vehicle License Plate Number WY XCP324

SECTION III TO BE COMPLETED BY THE SPECIAL WASTE HAULER

SECTION III TO BE COMPLETED BY THE SPECIAL WASTE DISPOSER

Name of Hauler Duane Moride Address 26 Washington, E. RR. N.Y.
I certify that the described quantity of material (s) listed in Section I was hauled by me to the Special Waste Facility
named in Section I
Date 11/2/78 Signature Chas. Lawton Vehicle License Plate Number 05T X0P3QA

SECTION IV TO BE COMPLETED BY THE SPECIAL WASTE FACILITY

SECTION IV TO BE COMPLETED BY THE SECOND WASTE FACILITY

Name of Facility DIANE MARINE CORP. Address 26 WASHINGTON ST. PA, NJ
Registration Number 7216A Date Waste Received 11/02/78 ☒ Accepted ☐ Rejected
I certify that the hauler stated above delivered the waste described in Section I to this Facility.
Date 11/2/78 Signature and Title Vincent J. Poterino

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

-----x
ADMINISTRATIVE ORDER

In the Matter of:

Index No. II-CERCLA-50107

APEX COLOR WORKS, INC., et al :

Respondents.

: Affidavit of Burton G. Greenblatt
: in Support of Petition of G & W
: Laboratories, Inc. for Removal as
: Respondent
-----x

STATE OF NEW JERSEY)

:ss

COUNTY OF UNION)

BURTON G. GREENBLATT, of full age, being duly sworn, according to law, deposes and says:

1. I am presently and have since 1974, been President of G & W Laboratories, Inc. ("G & W"). I am submitting the within Affidavit in support of the Petition of G & W to be removed as a Respondent to Administrative Order Index No. II-CERCLA-50107 relating to Duane Marine Salvage Corp. in Perth Amboy, New Jersey ("Duane Marine").

2. I understand that the Complaint filed by the U.S. Environmental Protection Agency ("EPA") against G & W alleges, in pertinent part, that G & W shipped certain hazardous waste to Duane Marine on November 2, 1978, as more specifically reflected in a certain Special Waste Manifest No. A 47137. A copy of the Manifest, which was supplied to us by the EPA, is annexed hereto.

3. I have been employed by G & W commencing in 1946, and have been President since 1974. In the pertinent period of 1978, the date appearing on the Special Waste Manifest, I was totally familiar with all of the major operations of G & W including purchasing, compounding,

manufacturing, quality control, packaging and shipping operations. Indeed, I was involved in all of the aforementioned operations for at least ten (10) years prior to 1978. I am, in this connection, a licensed pharmacist.

4. Based upon my own personal knowledge, I can state that the only manufacturing wastes generated by G & W have been totally non-hazardous pharmaceutical wastes that were generated as the result of the manufacture of certain pharmaceutical products used within the human body.

5. The only hazardous wastes generated by G & W in 1978, and for at least ten (10) years prior to 1978, and continuing up to the present time, are solely those wastes generated by the Quality Control Laboratory. The number of containers of alleged hazardous wastes referred to on the Special Waste Manifest is totally inconsistent with the operations of G & W and can not be accurate. For example, in the last 12-month period, the Quality Control Laboratory generated less than two (2) drums containing 55 gallons per drum of waste from the output of five (5) chemists working for G & W at a time when its sales volume is approximately two times the sales volume in 1978, when the Quality Control Laboratory utilized the services of only three (3) chemists. It is therefore illogical and impossible that G & W generated quantities of wastes as set forth in the Special Waste Manifest.

6. It should be noted that G & W is a manufacturer primarily of glycerin suppositories and medicated suppositories. The only hazardous wastes, if any, are produced as a by-product of the operations of our quality control laboratory in which, as stated above, G & W generates approximately two 55-gallon drums of laboratory waste per year. For

example, since October 18, 1984, a period of approximately seven (7) months, G & W has accumulated slightly more than one 55-gallon drum of hazardous waste materials. Between November 1983, and October 1984, G & W generated two 55-gallon drums of waste material which were disposed of on October 18, 1984. Prior to November 1983, G & W stored its wastes in drums in a special isolated location on its premises during the period 1979, to 1983. In November of 1983, G & W disposed of all of its wastes which had been accumulating from 1979, including laboratory wastes, reagents and raw materials which were no longer usable by G & W. At this time of "house cleaning", G & W disposed of 17 55-gallon drums and a further amount of 60 gallons stored in six (6) small pails for a total of the equivalent of approximately 18 55-gallon drums for a period of five (5) years. This total amount of wastes that were disposed included not merely laboratory wastes but reagents and raw materials. The numbers set forth above support our contention that G & W, at most, disposes of approximately two 55-gallon drums of waste per year and not the amounts set forth on the Special Waste Manifest which is the evidence on which the EPA bases the Complaint filed against G & W in this matter.

7. G & W does not generate hazardous waste material from its operation and has never done so during the time period commencing in 1946, when I first became employed by G & W. The pharmaceutical waste that is generated by G & W consists almost entirely of hydrogenated vegetable oil or glycerin and would not, accordingly, be hazardous.

8. In researching the files of G & W, we have been unable to locate a copy of the Special Waste Manifest which is annexed hereto and

which forms the basis of the allegations of the EPA. Because we manufacture pharmaceutical products, our recordkeeping must be precise and complete since we are subject to the possibility of inspection by various Governmental agencies at any time. The fact that our records do not contain a copy of the Special Waste Manifest indicates to me that there is a definite irregularity with respect to same and this irregularity creates a sincere doubt in my mind as to the credibility of the information contained on the Special Waste Manifest.

9. There are additional aspects to the Special Waste Manifest which create further doubt as to its reliability. Initially, it is clearly apparent from the Special Waste Manifest that there have been substantial and material alterations made to the document changing the number of containers and the total quantity contained therein. On Line 10, the number of containers has been crossed out and replaced with the "10". The gallons or pounds contained in the containers has also been altered to now indicate an amount of 550 gallons. On Line 18, the number of containers has been obviously changed to "24". There are no initials of any employee of G & W next to the alterations which are required and are the normal and usual method of doing business of G & W. If there are no initials of any employee next to alterations, G & W will not accept the change as being a change authorized by G & W.

10. There is a further circumstance which creates additional doubt as to the authenticity of the Special Waste Manifest. Specifically, the Manifest is dated November 2, 1978, which is approximately five (5) months after G & W first occupied the building it now occupies in South Plainfield, New Jersey. G & W, in May of 1978, moved into this

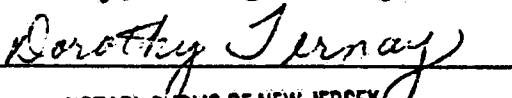
building. It is impossible for G & W to generate the wastes reflected on the Special Waste Manifest during a period of five (5) months between May 1978, and November 2, 1978. G & W did not pack up its waste from its prior location and move the waste to the new location in South Plainfield, New Jersey. Any waste that did exist at the time of the move in May of 1978, was disposed of prior to the move.

11. It is clear from the foregoing that the Special Waste Manifest has been altered and that it does not reflect the type and quantity of wastes generated by G & W. G & W's manufacturing operations do not, as stated above, generate hazardous wastes, and the wastes that it does generate do not at all approximate the quantities reflected on the Special Waste Manifest.

For all of the foregoing reasons, G & W respectfully requests that the EPA remove G & W as a Respondent in this cause of action filed in connection with Duane Marine.


BURTON G. GREENBLATT

Sworn to and subscribed before
me this 8th day of May, 1985.


NOTARY PUBLIC OF NEW JERSEY
My Commission Expires July 25, 1985